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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.														
09/761,511	01/16/2001	Takayuki Hisanaka	2309/01158	5640														
7590 DARBY & DARBY P.C. 805 Third Avenue new York, NY 10022		01/09/2008	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">ANDERSON, CATHARINE L</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3761</td><td></td></tr><tr><td colspan="2"><table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>01/09/2008</td><td>PAPER</td></tr></table></td></tr></table>		EXAMINER		ANDERSON, CATHARINE L		ART UNIT	PAPER NUMBER	3761		<table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>01/09/2008</td><td>PAPER</td></tr></table>		MAIL DATE	DELIVERY MODE	01/09/2008	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/761,511

Applicant(s)

HISANAKA, TAKAYUKI

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 11, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 11, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 October 2007 has been entered.

Response to Arguments

2. Applicant's arguments filed 31 October 2007 have been fully considered but they are not persuasive.

3. In response to the applicant's argument that Ehrnsperger discloses the solubility being temperature dependent, not the melting point of the soluble material, it is noted that the soluble material of Ehrnsperger discloses in column 13, lines 10-12, that the material transitions from solid to liquid at the temperature threshold of 35 degrees C. Therefore, the material of Ehrnsperger melts at the temperature threshold of 35 degrees C, and fulfills the claimed limitations.

4. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the polyethylene oxide having a melting point of 35-40 degrees C) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The present claims merely require the support member to have a melting point of 35-40 degrees C, and further disclose the support member is formed of (i.e. comprises) polyethylene oxide, but does not claim the polyethylene oxide specifically has a melting point in the claimed range. Therefore, the soluble material of Ehrnsperger, which includes polyethylene oxide and melts at 35 degrees C, fulfills the claimed limitations.

Claim Rejections - 35 USC § 102

5. Claims 8, 11, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ehrnsperger et al. (6,160,200).

6. Ehrnsperger discloses an absorbent article 20 comprising a liquid pervious topsheet 24, a backsheet 26, and an absorbent core 26, as shown in figures 1-6. A skin-protective ingredient containing layer is applied to the upper surface of the topsheet 24, as disclosed in column 6, line 64-column 7, line 17, in a predetermined pattern. The skin-protective ingredient is fully capable of forming an oily film on the skin of a wearer. A support layer 66 is formed over the skin protective ingredient containing layer, as disclosed in column 17, lines 59-62, and covers substantially the entire article, as disclosed in column 11, lines 3-5. The skin protective ingredient containing layer comprises petroleum jelly, as disclosed in column 16, lines 60-62. The support layer 66 comprises a body adhering composition formed of a polyethylene oxide, as disclosed in column 15, lines 58-67. The support layer 66 melts at a temperature threshold of 35 degrees C, as disclosed in column 13, lines 10-12. The support layer 66 is soluble in water at and above 25 degrees Celsius, as disclosed in column 10, lines 36-53 and

column 13, lines 1-23. It is the examiner's position that since the support layer is soluble in water, at 100% humidity, the support layer is therefore promoted at 100% humidity, which is greater than 30% humidity. The support layer 66 is therefore capable of exposing the skin protective ingredient containing layer to the skin of a wearer after dissolving.

7. With respect to claim 11, the article further comprises leak-preventive cuffs 32.

8. With respect to claims 16 and 17, the skin-protective ingredient containing layer is located on the topsheet 24 of the article, which fits around the wearer's thighs and abdominal region.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA
cla
January 2, 2008

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
T. Zalukaeva